

AN ORDINANCE

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DECLARING THAT THE SAN ANTONIO WATER SYSTEM'S RECYCLING INTERBRANCH CONNECTION SEGMENT 2 & 3 AND THE JACKSON KELLER TO OBLATE POTABLE WATER MAIN PROJECT ARE NECESSARY PUBLIC PROJECTS; FURTHER DECLARING THAT A PUBLIC NECESSITY EXISTS FOR THE ACQUISITION OF PERMANENT AND TEMPORARY EASEMENT INTERESTS IN THE NAME OF THE CITY OF SAN ANTONIO FOR THE USE AND BENEFIT OF THE SAN ANTONIO WATER SYSTEM ACROSS, OVER, UPON AND UNDER CERTAIN PRIVATELY OWNED PROPERTIES DESCRIBED BELOW ("PROPERTY") FOR USE AS PART OF THE RECYCLING INTERBRANCH CONNECTION SEGMENT 2 & 3 AND FOR THE JACKSON KELLER TO OBLATE POTABLE WATER MAIN PROJECT; AUTHORIZING THE SAN ANTONIO WATER SYSTEM, ITS EMPLOYEES, AGENTS, AND/OR THEIR AUTHORIZED INDEPENDENT NEGOTIATORS TO NEGOTIATE AND EXECUTE ALL SALES AND OTHER AGREEMENTS, EASEMENTS AND OTHER NECESSARY DOCUMENTS WITH THE OWNERS OF THE PROPERTY; AND TO TAKE ALL OTHER LAWFUL ACTIONS NECESSARY OR INCIDENTAL TO SURVEY, SPECIFY CLARIFY, AND DEFINE TO ACQUIRE THE PERMANENT AND TEMPORARY EASEMENT INTERESTS, ACROSS, OVER, UPON THE PROPERTY; FURTHER AUTHORIZING THE GENERAL COUNSEL OF THE SAN ANTONIO WATER SYSTEM TO FILE CONDEMNATION PROCEEDINGS, IF NECESSARY, AND PROSECUTE ALL SUCH CONDEMNATION PROCEEDINGS THROUGH CONCLUSION (INCLUDING FINAL JUDGMENT AND ALL NECESSARY APPEALS) FOR THE ACQUISITION OF THE FOLLOWING PROPERTY;

Parcel No.	Acres Easements Permanent (P) Temporary (T)	Lot(s)	NCB:
SAWS-6765A	0.476-Acre-T	25	11622
SAWS-6779 SAWS-6779T	0.104-Acre-P 0.293-Acre-T	P-107	11631
SAWS-6779A SAWS-6779AT	0.102-Acre-P 0.228-Acre-T	P-100	11631
SAWS-6794	4.228-Acre-P	37	11688
SAWS-6800	0.072-Acre-P	M	11693

APPROVING, RATIFYING AND DECLARING VALID ALL PRIOR ACTS AND PROCEEDINGS DONE OR INITIATED BY ATTORNEYS, AGENTS AND EMPLOYEES OF AND/OR ACTING FOR THE SAN ANTONIO WATER SYSTEM TO ACQUIRE SUCH PROPERTY; PROVIDING FOR A SEVERABILITY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

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WHEREAS, the public health, safety and best interest of the City of San Antonio and its citizens require the continued construction, operation and maintenance of potable water, recycled water and sewer facilities for the community; and

WHEREAS, it is necessary to construct, operate, and maintain such facility(ies) known as Recycling Interbranch Connection Segment 2 and 3 Project and for the Jackson Keller to Oblate Potable Water Main Project ("the Segment 2 & 3 and the Jackson Keller Potable Water Projects"); and

WHEREAS, portions of the Segment 2 & 3 Project and the Jackson Keller Potable Water Project are on property that is privately owned; and

WHEREAS, the City of San Antonio acting by and through representatives of the San Antonio Water System ("SAWS") have been unable to acquire the permanent and temporary easement interest on the tracts; and

WHEREAS, the San Antonio Water System Board of Trustees ("Board") found, pursuant to Board Resolution No. 04-280 that the acquisition of such easement interests is necessary for the public health, safety, and best interests of the citizens of the City of San Antonio and the surrounding region; and

WHEREAS, the Board requested, pursuant to Board Resolution No. 04-150, that the City of San Antonio City Council adopt an ordinance declaring a public necessity for the acquisition of such easements through the filing of lawsuits when deemed necessary to gain access for the purpose of surveying, appraising, testing, and acquisition through the exercise of its eminent domain authority;

WHEREAS, the Board further requested, pursuant to Board Resolution No. 04-280, that the San Antonio City Council authorize SAWS to undertake such proceedings; **NOW THEREFORE**,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. It is hereby declared that the San Antonio Water System's the Recycling Interbranch Connection Segment 2 & 3 Project and the Jackson Keller Potable Water Project ("Segment 2 & 3 and the Jackson Keller Potable Water Project") are necessary public projects.

SECTION 2. It is further declared that a public necessity exists for the acquisition of permanent and temporary easement interests across, over, upon and under certain privately owned real properties (Property) described herein, by negotiation and/or condemnation if necessary for public improvements for use as part of the Segment 2 & 3 Project and the Jackson Keller Potable Water Project, such Property being more particularly described in **Attachment I**, which is attached hereto and incorporated herein.

SECTION 3. The San Antonio Water System, its employees, agents, and/or their authorized independent negotiators are hereby authorized to negotiate and execute all sales, any other agreements, easements and other necessary documents with the owners of certain Property and to take all other lawful actions necessary or incidental to survey, specify, clarify, and to define and acquire the permanent easement interest across, over, upon and under such Property.

SECTION 4. That San Antonio Water System's General Counsel is hereby authorized to file condemnation proceedings, if necessary, and prosecute all such condemnation proceedings through

conclusion (including final judgment and all necessary appeals) for the condemnation of the permanent easement interests across, over, upon and under such Property.

SECTION 5. All prior acts and proceedings done or initiated by attorneys, agents and employees of and/or acting for the San Antonio Water System to acquire such permanent easement interests across, over, upon and under such Property are hereby approved, ratified and declared valid.

SECTION 6. The conveyance of all such permanent easement interests in the Property shall be to the City of San Antonio for the use and benefit of the San Antonio Water System.

SECTION 7. It is officially found, determined and declared that the meeting at which this ordinance is adopted was open to the public, and that public notice of the time, place and subject matter of the public business to be conducted at such meeting, including this ordinance, was given to all as required by the Texas Codes Annotated, as amended, Title 5, Chapter 551, Government Code.

SECTION 8. If any part, section, paragraph, sentence, phrase or word of this ordinance is, for any reason, held to be unconstitutional, illegal, inoperative or invalid, or if any exception to or limitation upon any general provision herein contained is held to be unconstitutional, illegal, invalid or ineffective, the remainder of this ordinance shall nevertheless stand effective and valid as if it had been enacted without the portion held to be unconstitutional, illegal, invalid or ineffective.

SECTION 9. This ordinance shall be effective immediately if it receives eight affirmative votes. Otherwise it shall be effective on August 15, 2004.

PASSED AND APPROVED this the 5th day of August, 2004.




M A Y O R
EDWARD D. GARZA

ATTEST:


City Clerk

APPROVED AS TO FORM:


City Attorney